

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2340 of 2000

with

CIVIL APPLICATION NO. 8409 OF 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

KIRANKUMAR MANILAL KANABAR

Appearance:

1. First Appeal No. 2340 of 2000
MRS VASAVDATTA BHATT for Petitioner
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CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE K.M.MEHTA

Date of decision: 28/09/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

In this appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the new Act') the challenge is against the interim order of compensation in a case of fatal vehicular injury. Motor Accident Claims Tribunal (Main), Rajkot, has passed order below Exh. 7 in M.A.C. Case No. 1909 of 1999 whereby the interim compensation of Rs. 50,000/- is awarded against the appellant stating that there is a prima facie case. The impugned order came to be recorded on 28.2.2000 which is challenged before us.

2. In the new Act in Chapter X provisions have been incorporated for liability without fault in certain cases. Section 140 empowers the Tribunal to award an amount of compensation to the extent of Rs. 50,000/- in case of fatal injury and Rs. 25,000/- in case of permanent disablement to any person on the principle of 'no fault'. The Tribunal finds that if there is prima facie evidence of involvement of a vehicle, it is authorised to award interim compensation. Of course, the amount awarded under Section 140 of the new Act is subject to adjustment when the main petition is disposed of on merits.

3. In the present case, the heirs and legal representatives of the deceased Kinalbhai Kirankumar Kanabar who filed claim case No. 1909 of 1999 for compensation of Rs. 8 lakhs for the unfortunate, untimely and premature death of the bread-winner in a motor vehicular accident in which S.T. Bus was involved. The accident occurred on 19.10.1998 near Virpur after midnight. The Tribunal has taken into consideration the documentary evidence produced on record including FIR, panchnama and post-mortem note. Prima facie requirement of Section 140 of the new Act are found to have been satisfied and therefore, the Tribunal awarded amount of Rs. 50,000/- under Section 140 of the new Act.

4. The scope in appeal under Section 173 of the Act against the order recorded by the Tribunal in exercise of its discretion under Section 140 of the new Act is very much circumscribed. We find no justification in this appeal as the prima facie requirements are satisfied and therefore the exercise of powers under Section 140 of the new Act by the Tribunal in awarding an amount of Rs. 50,000/- on no fault principle requires no interference. The appeal is meritless and therefore it is required to be dismissed and it is dismissed, accordingly, at the admission stage.

In view of the order passed in the main matter,
no orders are passed on the Civil Application.

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